

REMARKS

Claims 3 and 13 - 19 are all the claims pending in the application.

Claim 13 was amended to recite that mammals and fish can be treated and that the treatment is for bacterial infections, as supported in the specification at page 16, second full paragraph. Claim 13 was amended to use the better characterized phrase “comprising” in place of “characterized by.”

New claims 14-19 correspond to claims 4, 5, 14, 15, 18 and 19 cancelled from parent application number 10/275,972, except that the new claims also recite that fish can be treated.

Accordingly, no question of new matter arises and entry of the amendment is requested, respectfully.

II. Detailed Action

A) Claim Rejections - 35 U.S.C. § 112

Claim 13 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner asserted that the claim should specify the organism that is being treated, i.e., a mammal, a human, an animal etc.; specify the type of infection that is being treated, i.e., bacterial, viral, fungal; and use the art recognized connector “comprising” or “wherein” in place of “characterized by”.

The Examiner’s suggestions have been adopted. Accordingly, the Examiner is requested to reconsider and remove the rejection.

B) Claim Rejections - 35 U.S.C. § 102

Claims 3 and 13 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mitsuyuki (JP 2714597). The Examiner stated that Mitsuyuki discloses optically active

pyridonecarboxylic acid derivatives, their salts and hydrates thereof having antimicrobial activity for treating bacterial infections. The Examiner directed Applicants to claims 1-7 on pages 2-4 of the English translation of Mitsuyuki. The Examiner also directed Applicants attention to compound 41 at page 88.

As discussed in the parent application, while compound 41 of Mitsuyuki appears to be the same compound as the compound of general formula (1a), the general description in Mitsuyuki indicates that the substituent on the propyl ring of the compound of the formula (I) is generally a halogen atom. That is, Mitsuyuki does not recognize the advantages of the substituent being a F atom. Accordingly, the examiner is requested to reconsider the rejection.

C) Double Patenting

Claims 3 and 13 were provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 3 and 13 of co-pending Application No. 10/275,972.

Claims 3 and 13 of co-pending Application No. 10/275,972 have been canceled.

Accordingly, the rejection is overcome and should be withdrawn.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
U.S. Application No. 10/753,367

Q79381

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

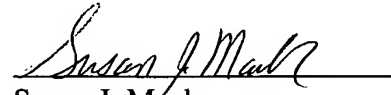
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